

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MATTHEW R. PATRICK & ANNA T.
PATRICK, h/w,

Plaintiffs

v.

VRBO.COM, INC. et al.

Defendants

NO. 3:20-CV-00269-MEM

JUDGE MALACHY E. MANNION

ELECTRONICALLY FILED

**MOTION TO DISMISS OF DEFENDANTS EXPEDIA GROUP, INC.,
VRBO HOLDINGS, INC., AND HOMEAWAY.COM, INC. PURSUANT TO
Fed. R. Civ. P. 12(b)(2) AND 12(b)(6)**

Defendants Expedia Group, Inc. (“Expedia Group”), Vrbo Holdings, Inc. (“Vrbo”), and HomeAway.com, Inc. (“HomeAway”) (collectively, the “Expedia Defendants¹”), by and through their attorneys, Buchanan Ingersoll & Rooney PC, hereby move the Court for an Order pursuant to Rules 12(b)(2) and/or 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Amended Complaint of Plaintiffs Matthew R. Patrick and Anna T. Patrick (“Plaintiffs”) in its entirety as to the Expedia Defendants, with prejudice, or, in the alternative, dismissing specific

¹ As reflected in their corporate disclosure statements filed in this matter (Docs. 17 and 18), the Amended Complaint and caption incorrectly identify Vrbo Holdings, Inc. as “VRBO.COM, Inc.” and incorrectly identify HomeAway.com, Inc. as “HomeAway, Inc.” These entities are referred to herein by their proper corporate names.

Counts and claims in the Amended Complaint, with prejudice. The grounds for this Motion to Dismiss, as more fully set forth in the accompanying Brief, which is incorporated herein by reference, are as follows:

1. Plaintiffs cannot establish the Court's personal jurisdiction over the Expedia Defendants and, as such, Plaintiffs' Amended Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(2);

2. Plaintiffs have failed to establish the necessary elements of negligence as to the Expedia Defendants and, as such, Plaintiffs' negligence claims in Counts I and II of the Amended Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6);

3. Plaintiffs have failed to allege any facts to support the contention that punitive damages are permissible or appropriate in this matter and, as such, Plaintiffs' punitive damages claim in Count III of the Amended Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6);

4. Plaintiffs have failed to allege any facts that would allow for the recovery of attorney's fees and, as such, Plaintiffs' claims for attorney's fees in the *ad damnum* clauses of Counts I through V of the Amended Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6); and

5. Plaintiffs have failed to allege facts sufficient to sustain a claim against the Expedia Defendants for negligence in Counts I and/or II and, as such, Plaintiffs'

derivative claims for loss of consortium in Counts IV and V of the Amended Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6).

WHEREFORE, the Expedia Defendants respectfully request that the Amended Complaint be dismissed in its entirety as to the Expedia Defendants for lack of personal jurisdiction, with prejudice, or, in the alternative, that the specific Counts and claims identified above be dismissed as to the Expedia Defendants, with prejudice.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

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*Attorneys for Defendants Expedia Group,
Inc., Vrbo Holdings, Inc. and
HomeAway.com, Inc.*

DATE: May 15, 2020

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ORDER

AND NOW, this ____ day of _____, 2020, after consideration of the Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(6) of Defendants Expedia Group, Inc., Vrbo Holdings, Inc., and HomeAway.com, Inc. (collectively, “Expedia Defendants”) (Doc. ____) and all briefing relevant thereto, it is hereby ORDERED that said Motion is GRANTED. The Amended Complaint is hereby dismissed in its entirety as to Expedia Defendants, with prejudice.

BY THE COURT:

MALACHY E. MANNION

CERTIFICATE OF NON-CONCURRENCE

Pursuant to Local Rule 7.1, counsel for Defendants Expedia Group, Inc., Vrbo Holdings, Inc., and HomeAway.com, Inc. certifies that counsel for Plaintiffs does not concur in the foregoing Motion.

/s/ Jayson R. Wolfgang

Jayson R. Wolfgang

Dated: May 15, 2020

CERTIFICATE OF SERVICE

I, Jayson R. Wolfgang, hereby certify that a true and correct copy of the foregoing document was served via the Court's CM/ECF system to the following:

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By: s/ Jayson R. Wolfgang
Jayson R. Wolfgang

DATE: May 15, 2020